

JOHN D. GIFFIN, CASB No. 89608
john.giffin@kyl.com
JULIE L. TAYLOR, CASB NO. 154341
julie.taylor@kyl.com
JULIE A. KOLE, CASB NO. 203681
KEESAL, YOUNG & LOGAN
A Professional Corporation
Four Embarcadero Center, Suite 1500
San Francisco, California 94111
Telephone: (415) 398-6000
Facsimile: (415) 981-0136

Attorneys for Defendant
REGAL STONE, LTD.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Chelsea, LLC, Mark Russo, Allen Loretz, and Ivan Simpson, individually and on behalf of all others similarly situated,	) Case No. C-07-5800-SC
)
	) DECLARATION OF JOHN GIFFIN IN
	) SUPPORT OF REGAL STONE LTD.'S
	) RESPONSE TO THE UNITED
Plaintiffs,	) STATES' REPLY/RESPONSE TO
	) REGAL STONE LTD.'S OPPOSITION
	) TO EX PARTE MOTION FOR AN
vs.	) ORDER TO SHOW CAUSE
)
)
Regal Stone, Ltd., Hanjin Shipping, Co., Ltd., Conti Cairo KG, NSB	) Courtroom: 1, 17 th Floor
Neiderelbe, Synergy Maritime, Ltd. <i>In</i>	) Honorable Samuel J. Conti
<i>Personam</i> ; M/V Cosco Busan, their)
engines, tackle, equipment)
appurtenances, freights, and cargo <i>In</i>)
<i>Rem</i> ,)
)
Defendants.)

I, JOHN D. GIFFIN, declare as follows:

1. I am an attorney licensed to practice law in the State of California, and I am a member of the law firm of Keesal, Young & Logan, attorneys of record in the above-referenced litigation for Plaintiff CHELSEA, LLC et. al. I have personal knowledge of

1 the facts set forth in this Declaration and I could and would competently testify thereto
2 if called to do so.

3 2. Attached hereto as "Exhibit A" is a true and correct copy of the Notice of
4 Designation issued by the United States Coast Guard and presented to Regal Stone
5 Limited whereby the U.S. Coast Guard advised Regal Stone that is has been designated
6 as the Responsible Party for the November 7, 2007 oil spill. It is dated November 9,
7 2007.

8 3. Attached hereto as "Exhibit B" is a true and correct copy of relevant pages
9 from the current edition of the U.S. Coast Guard Field Operations Guide. The attached
10 pages are the cover of the Guide, the Incident Command System Organization chart and
11 Section 11, pages 11-7 and 11-8 concerning the Compensation/Claims Unit Leader.
12

13 I declare under penalty of perjury under the laws of the State of California that
14 the foregoing is true and correct.

15 Executed on this 5th day of February, 2008 in the city and county of San Francisco,
16 California.

17
18 DATED: February 5, 2008



JOHN/GIFFIN

EXHIBIT “A”

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center

4200 Wilson Blvd., Suite 1000
Arlington, VA 22203-1804
Staff Symbol: Ca
Phone: 202-493-6883
Toll-Free: 1-800-358-2897 x36883
FAX: 202-493-6937
Email: Neil.C.Bridge@uscg.mil

16480
CA-D Ser 126/07
November 9, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
7005 2570 0000 1762 7841

Regal Stone Limited
C/O O'Brien Oil Pollution Service
ATTN: Deborah Pelsinski/Chris Gregory
103 Morgan Lane Suite 103
Plainsboro NJ 08536-3339

RE: COSCO BUSAN
FPN: A08003

Dear Ms. Pelsinski and Mr. Gregory:

On or about November 7, 2007, the U.S. Coast Guard responded to an oil pollution incident which occurred near the San Francisco Bay. Our records indicate that the Cosco Busan has been identified as the source of the pollution incident. The incident resulted after the Cosco Busan discharged oil into the San Francisco Bay, a navigable water of the United States. Our records indicate that you were the Owner and/or Operator of the vessel or facility at the time of the incident. As such, you may be liable as a responsible party for the resulting removal costs and damages.

Unless they can establish a defense to liability, owners and operators of vessels or facilities that either pose a substantial threat of a discharge of oil or are the source of an oil discharge into navigable waters of the United States are liable for removal costs and damages, as specified in the Oil Pollution Act of 1990 (33 USC 2701 et. seq.).

The Oil Pollution Act of 1990 requires that we formally designate the Cosco Busan as the source of the discharge and notify you that as its Owner and/or Operator, you incur certain legal responsibilities to the U.S. Government and others damaged by this incident. You may be liable for removal costs and damages, as specified in 33 USC 2702, and must advertise the procedures by which persons who have claims for removal costs and damages may submit their claims to you, as specified in 33 USC 2714.

You must publicly advertise this designation and the procedures by which claims may be presented to you. The advertisement must begin within 15 days of the date of this letter and must continue for no less than 30 days. Enclosure (1) outlines the required content of this advertisement and enclosure (2) is a sample advertisement. You may choose to follow this sample but are not required to do so as long as your advertisement contains the required information. Your advertisement must be disseminated in such a manner that all potential claimants are notified. To accomplish this, we require that you advertise in the newspaper(s) having general circulation in the area(s) where claimants may be affected. We also require that you post notices in marinas and provide direct notification where individuals have been identified as receiving damages from your spill. You may propose other methods of advertisement and notification, but they may be used only when approved in advance by the National Pollution Funds Center. Please note that a claimant may present a claim for interim short-term damages representing less than the full amount to which the claimant ultimately may be entitled. Payment of such claim shall not preclude recovery for damages not reflected in the paid or settled partial claim.

You are directed to inform us of the specifics of your advertising, including the name of any newspaper or other publication in which the advertisement is run, the geographical area covered by the publication, and how often the advertisement will appear, as appropriate. Send us copies of the advertisement and advise us in writing that you have begun advertising within 20 days of receipt of this letter, otherwise we will assume that you did not comply with these requirements. If you do not comply with these requirements, the National Pollution Funds Center will advertise for claims. If we advertise, you will be charged for our costs, as well as for the costs of any administration, adjudication, and payment of claims.

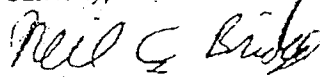
Subj: COSCO BUSAN

16480
November 9, 2007

You may deny this designation within 5 days of receipt of this Notice of Designation. Your denial must be in writing, identify this Notice of Designation, give the reasons for the denial, include a copy of all supporting documents, and must be submitted to Neil C. Bridge, Claims Manager, at the above address. If you deny this designation, the National Pollution Funds Center will advertise for claims. If we advertise and you are later judged to be responsible for the discharge, you will be charged for our costs, as well as for the costs of any administration, adjudication, and payment of claims.

You may contact the Claims Manager, Neil C. Bridge, at 1-800-358-2897 or 1-800-280-7118, ext. 0 if you have any questions. The FAX number is 202-493-6937.

Sincerely,



NEIL C. BRIDGE
U.S. Coast Guard
Claims Manager

Enclosure: (1) Content of Advertisement
(2) Sample Advertisement

Content of Advertisement

Each advertisement/notification is to contain the following information or to indicate where this information may be contained:

1. Location, date and time of the incident.
2. Geographical area affected.
3. Quantity of oil involved.
4. Name or other description of the designated source.
5. Name of the responsible party (you).
6. Name, address, telephone number, office hours, and workdays of the person or persons to whom claims are to be presented and from whom claim information can be obtained.
7. The procedures by which a claim may be presented, including a statement that indicates that claimant may present a claim for interim short-term damages representing less than the full amount to which the claimant ultimately may be entitled. Payment of such claim shall not preclude recovery for damages not reflected in the paid or settled partial claim.
8. Notification that if you deny or do not resolve a claim within 90 days after the date of submission, the claimant may then submit the claim to the National Pollution Funds Center (nc), 4200 Wilson Boulevard, Suite 1000, Arlington, VA 22203-1804, for our consideration. We will then evaluate the claim and take appropriate action.
9. Unless noted below, the advertisement/notification must be in English.

Sample Advertisement

PUBLIC NOTICE

In accordance with the Oil Pollution Act of 1990 (33 USC 2714(c)), the Cosco Busan, owned and/or operated by Regal Stone Limited, has been named as the source of a discharge of oil into the San Francisco Bay on or about November 7, 2007. This spill impacted the San Francisco Bay area, and as the Owner and/or Operator of the vessel/facility, [your name] is accepting claims for certain uncompensated damages and removal costs.

Removal costs and damages which may be compensated include removal costs; damage to natural resources; damage to or loss of real or personal property; loss of subsistence use of natural resources; loss of government revenues; loss of profits and earnings capacity; and increased cost of public services.

Claims should be in writing, signed by the claimant, for a specified amount, and should include all evidence to support the damages. Claims presented may include claims for interim short-term damages representing less than the full amount to which the claimant ultimately may be entitled. It should be noted that payment of such claim shall not preclude recovery for damages not reflected in the paid or settled partial claims. Claims should be mailed to the following address:

[Address to which claims should be sent]

Office hours are from 9:00 AM to 5:00 PM EST, Monday through Friday, except holidays. Claimants may call [telephone number for claims] for information.

Any claims which are denied or which are not resolved within 90 days after the date of submission to our claims representative may be submitted to the National Pollution Funds Center (ca), 4200 Wilson Blvd., Suite 1000, Arlington, VA 22203-1804 for consideration.

EXHIBIT “B”

FIELD OPERATIONS GUIDE

INCIDENT COMMAND SYSTEM (ICS)



**PREPARED BY U.S. COAST GUARD
OFFICE OF RESPONSE (G-MOR-3)
WASHINGTON, D.C. 20593**

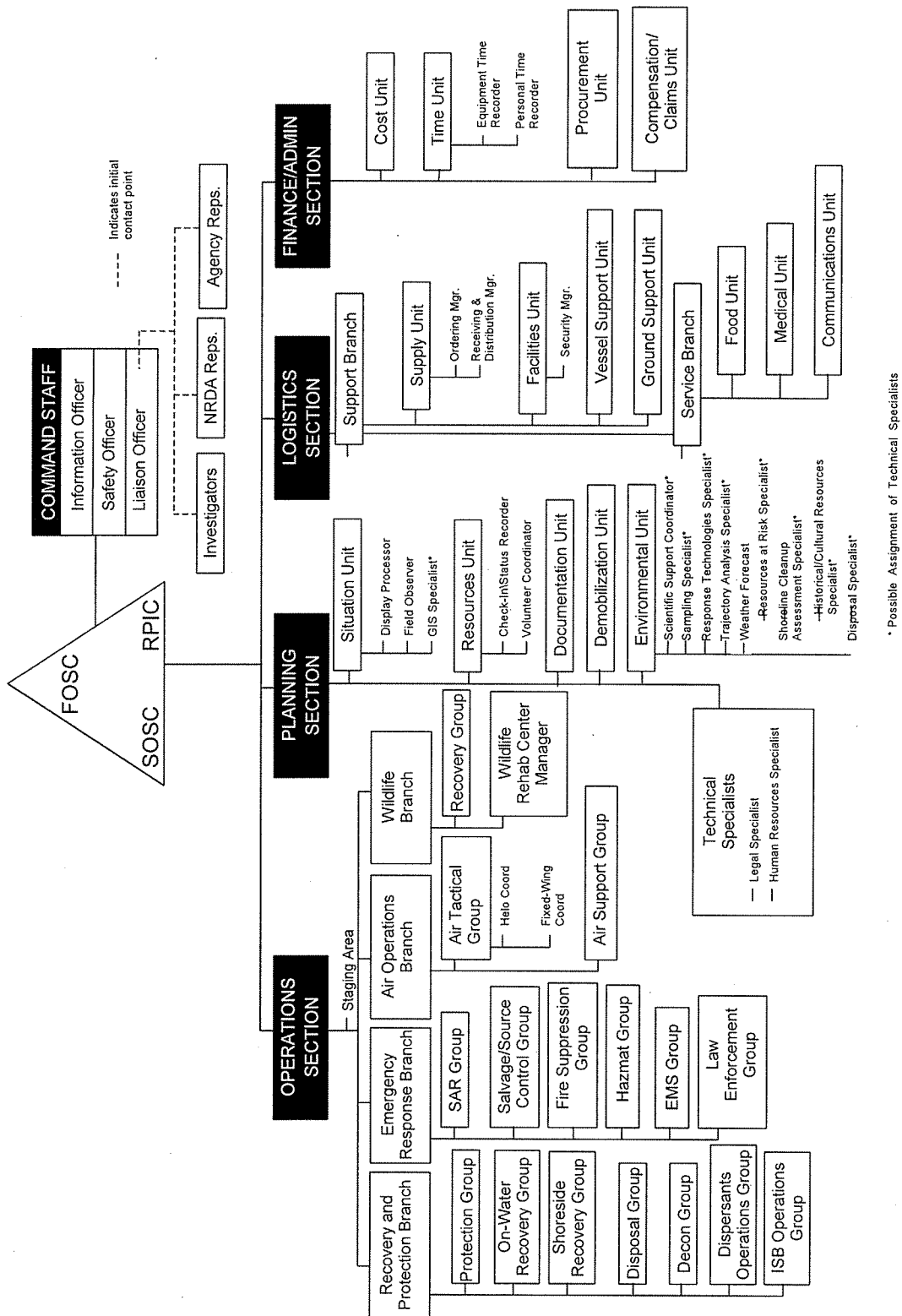
REPORT OIL AND CHEMICAL SPILLS

1-800-424-8802

2000 EDITION

June, 2000

ICS-OS-420-1

EXAMPLE RESPONSE ORGANIZATION

COMPENSATION/CLAIMS UNIT LEADER

The Compensation/Claims Unit Leader is responsible for the overall management and direction of all administrative matters pertaining to compensation-for-injury and claims-related activity for an incident.

- a. Review Common Responsibilities (page 6-2).
- b. Review Unit Leader Responsibilities (page 6-3).
- c. Obtain briefing from Finance/Administration Section Chief.
- d. Establish contact with Safety Officer, Liaison Officer and Company/Agency Representatives.
- e. Determine the need for Compensation for Injury and Claims Specialists and order personnel, as needed.
- f. If possible, collocate Compensation-for-Injury work

11-7

FIN/ADM

FIN/ADM

June, 2000

ICS-OS-420-1

- area with the Medical Unit.
- g. Obtain a copy of the Incident Medical Plan.
 - h. Coordinate with Procurement Unit on procedures for handling claims.
 - i. Periodically review documents produced by subordinates.
 - j. Obtain Demobilization Plan and ensure that Compensation-for-Injury and Claims Specialists are adequately briefed on Demobilization Plan.
 - k. Ensure that all Compensation-for-Injury and Claims documents are up to date and routed to the proper company/agency.
 - l. Maintain Unit/Activity Log (ICS 214).

11-8

FIN/ADM

FIN/ADM